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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,925	08/10/2001	Koji Mizobuchi	01480/LH	6043
1933	7590	07/28/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 5TH AVE FL 16 NEW YORK, NY 10001-7708			QUIETT, CARRAMAH J	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,925

Applicant(s)

MIZOBUCHI, KOJI

Examiner

Carramah J. Quiett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on August 16, 2000. It is noted, however, that applicant has not filed a certified copy of the 2000-247031 application as required by 35 U.S.C. 119(b).
2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on July 19, 2001. It is noted, however, that applicant has not filed a certified copy of the 2001-220003 application as required by 35 U.S.C. 119(b).

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

4. **Claim 7** is objected to because of the following informalities: One of the limitations in claim 7 is recited as, "...imaging means *imaging means* for recording image data in association with a time elapsed in the process of recording the audio data, while the audio data recording means is recording the audio data..." The term "imaging means" is a repeating term. As a suggestion from the Examiner, one of the terms, "imaging means," in that particular limitation should be omitted. Appropriate correction is required.
5. **Claim 12** is objected to because of the following informalities: One of the limitations in claim 12 is recited as, "...an image reproducing section which converts the *audio data* recorded

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in the memory, into image signals, and causing a display device to display the image data...”

The term “audio data” should be changed to “image data”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1 and 7-14** are rejected under 35 U.S.C. 102(e) as being anticipated by Ejima et al. (U.S. Patent Application Pub. #2002/0021262).

As for **claim 1**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) having a function of reproducing audio data and image data associated with the audio data (page 1, paragraph 7), said apparatus comprising:

audio data reproducing means (fig. 2, ref. 7B) for reproducing audio data (page 2, paragraph 35); and

display means (figs. 2/9, ref. 6) for displaying, while the audio data reproducing means is reproducing audio data (page 4, paragraph 60), first information (fig. 9, Audio Mark/Time) including character data (Audio Time) representing reproduction status of the audio data (page 5, paragraph 75) and for displaying second information (fig. 9, Recording Date/Data Set Number) including image data (thumbnail image) associated with the audio data being reproduced (page 5, paragraph 75).

As for **claim 7**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) having a function of recording audio data and image data associated with the audio data (page 1, paragraph 7), said apparatus comprising:

audio data recording means (fig. 4, ref. 12) for recording audio data (page 2, paragraph 39); and

imaging means (fig. 4, ref. 10) for recording image data (page 2, paragraphs 30-31) in association with a time elapsed in the process of recording the audio data, while the audio data recording means is recording the audio data (page 5, paragraph 72 and 74). Also please see fig. 7 and read pages 4-5, paragraphs 62-71.

As for **claim 8**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) having a function of recording audio data and image data associated with the audio data (page 1, paragraph 7), said apparatus comprising:

audio data reproducing means (fig. 2, ref. 7B) for reproducing audio data (page 2, paragraph 35); and

display means (figs. 2/9, ref. 6) for displaying, while the audio data reproducing means is reproducing audio data (page 4, paragraph 60), first information (fig. 9, Audio Mark/Time) including character data (Audio Time) representing reproduction status of the audio data (page 5, paragraph 75) and for displaying second information (fig. 9, Recording Date/Data Set Number) including image data (thumbnail image) associated with a time elapsed in the process of recording the audio data that the audio data reproducing means is reproducing (page 5, paragraph 75).

For **claim 9**, Ejima discloses the apparatus, wherein every time the time elapsed in the process of recording the audio data is detected (fig. 7; pages 4-5, paragraphs 65-69), the display means displays the image data for a predetermined time (figs 8/9; page 5, paragraphs 73-75) and then displays a reproduction status of the audio data (figs 8/9; page 5, paragraphs 73-75). In fig. 7, Ejima teaches a process where audio data has been recorded in Steps S10-212. This process detects whether or not the preset time interval has elapsed after resetting the time and sensing the status of the audio button. Then, Ejima explains how this process stores and displays the image/audio data. As shown in fig. 9, data set number 2 displays image data for a preset time interval and then, the time as well as the duration of the audio data is displayed at data set number 3. Please read page 5, paragraphs 74-75.

As for **claim 10**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) comprising:

an audio recording section (fig. 6, refs. 8,24,36, 39,42) which converts audio signals to audio data (page 3, paragraph 47) and which records the audio data in a memory (page 3, paragraph 44);

an image recording section (fig. 6, refs. 20,24,30-33,36, 39,42) which encodes (compresses) image signals generated by an imaging device (page 3, paragraph 44-46), into image data, and which records the image data in the memory (page 3, paragraph 45).

an index information recording section (fig. 6, refs. 39/45) which records index information about the audio data, said index information including data about the image data associated with the audio data (page 3, paragraph 51).

For **claim 11**, Ejima discloses an apparatus, wherein the index information includes at least one data item selected from the group consisting of data representing the address at which the audio data is recorded in the memory (page 5, paragraphs 68-69), a total number of image data items associated with the audio data (page 3, paragraphs 44-45; page 5, paragraph 64) and data representing the time at which the image associated with the audio data is acquired (page 5, paragraph 51 and 75). Also, please see figs. 7-9 and read (page 5, paragraphs 73-74).

As for **claim 12**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) comprising:

a sound reproducing section (fig. 6, refs. 5,24,36,39,42) which converts audio data recorded in a memory (page 3, paragraph 44), into audio signals (page 3, paragraph 47), thereby reproducing the audio data (page 2, paragraph 35);

an image reproducing section (fig. 6, refs. 6,6A,7,24,33,35,36, 39) which converts the image data recorded in the memory (33), into image signals, and causing a display device (6) to display the image data (page 3, paragraph 45); and

a control section (fig. 6, refs. 39/45) which controls the image reproducing section in accordance with index information about the audio data recorded in the memory, while the sound reproducing section is reproducing the audio signals (page 3, paragraph 51; page 4; paragraphs 64-66).

For **claim 13**, Ejima discloses an apparatus, wherein the control means causes the image reproducing section to read from the memory the image data associated with the audio data that the sound reproducing section is reproducing, thereby to reproduce the image data, while the sound reproducing section is reproducing audio data (page 4, paragraph 60).

For **claim 14**, Ejima discloses an apparatus, wherein the control means controls causes the image reproducing section to reproduce the image data when the audio reproducing section reproduces that part of the audio data which is associated with the image data (figs 8/9; page 5, paragraphs 73 and 75). In fig. 7, Ejima teaches a process where image data and audio data are recorded according to the status of a release button and an audio button, respectively. In figs. 8 and 9, Ejima illustrates how this process stores and displays the image/audio data. Image/audio data, stored in different parts of the memory, are assigned a data set (address). If the process decides that the release button has been depressed (fig. 7, S1-S6) image data is recorded and stored. If the audio button has been depressed (fig. 7, S8), audio data is recorded, stored, and associated with the stored image. As shown in fig. 9, the image data and that part of the audio data with an interval of 3 seconds are displayed at data set number 1. Alternately, another part of the audio data with an interval of 5 seconds is displayed at data set number 3 without displaying image data. Please read pages 4-5, paragraphs 65-75.

8. **Claim 2** is rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (U.S. Patent Application Pub. #2002/0057351).

As for **claim 2**, Suzuki discloses a data recording and reproducing apparatus (figs. 1-4) having audio data reproducing means (fig.2/fig. 4, refs. 5 and 36) for reproducing audio data selected (page 2, paragraph 35; page 3, paragraph 57), and display means (fig. 4, ref. 6) for displaying at least image data associated with the audio data selected (page 3, paragraph 56), said apparatus comprising:

instruction means (fig. 2, ref. 7; fig. 4, refs. 6A/B, 34, 35, and 41) for instructing the display means to display or not to display* the image data (page 2, paragraph 35-38);

control means (fig. 11, 6B) for causing the display means to display data representing reproduction status of the audio data (pages 6-7, paragraphs 101, 103-105), when the instruction means instructs the display means not to display the image data (figs. 12, 13, and 15). When the pen selects sound effects via the setting mode, it is inherent that the pen instructs the display not to display the image data. As shown in fig. 15, the LCD displays audio data as a result of the setting selection from the pen.

***Note:** The U.S. Patent and Trademark Office considers Applicant's "or" language to be anticipated by any reference containing one of the subsequent corresponding elements.

9. **Claim 4** is rejected under 35 U.S.C. 102(e) as being anticipated by Peng (U.S. Pat. #6,774,939).

As for **claim 4**, Peng discloses a data recording and reproducing apparatus (figs. 1-3, ref. 100) comprising:

audio data recording means (fig. 3, ref. 130) for recording audio data on a recording medium (fig. 3, ref. 120; col. 7, lines 30-57);

imaging means (fig. 3, ref. 140) for generating image data while the audio data recording means is recording the audio data (col. 6, lines 50-53); and

image recording means (fig. 3, ref. 140) for recording the image data on the recording medium (fig. 3, ref. 120; col. 7, lines 30-57), in association with that part of the audio data (col.

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7, lines 11-21) which is recorded the moment the imaging means generated the image data (col. 6, lines 50-53).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (U.S. Patent Application Pub. #2002/0057351) in view of Peng (U.S. Pat. #6,774,939).

For **claim 3**, Suzuki discloses an apparatus, wherein the control means causes the display means to display the reproduction status of the audio data when the instruction means instructs the display means to display the image data (pages 6-7, paragraphs 101, 103-105). However, Suzuki does not expressly teach that ~~the~~ the control means causes the display means to display the reproduction status of the audio data after displaying the image data for a predetermined time.

In the same field of endeavor, Peng discloses an apparatus (figs. 1-3, ref. 100), wherein the control means (fig. 2, ref. 32, 36) causes the display means to display the reproduction status of the audio data after displaying the image data for a predetermined time. Please see fig. 11, and read col. 14, lines 34-44. In light of the teaching of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Suzuki's apparatus with a control means (fig. 2, ref. 32, 36) causes the display means to display the reproduction status of the audio data after displaying the image data for a predetermined time, when the instruction

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means instructs the display means to display the image data in order provide a user with the option of capturing several image (or continuous image capture) at the same time as recording audio (Peng, col. 6, lines 50-53).

12. **Claims 5 and 15-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ejima et al. (U.S. Patent Application Pub. #2002/0021262) in view of Peng (U.S. Pat. #6,774,939).

As for **claim 5**, Ejima discloses a data recording and reproducing apparatus (figs. 1-6) capable of reproducing audio data and image data associated with that part of the audio data (page 1, paragraph 7), said apparatus comprising:

display means (figs. 2/9, ref. 6) for displaying an operating status of the apparatus (pages 2, paragraphs 32-35) and

control means (fig. 6, refs. 6A, 7 and 39) for causing the display means (figs. 2/9, ref. 6) to display first information (fig. 9, Audio Mark/Time) including character data (Audio Time) representing a reproduction status of the audio data (page 5, paragraph 75) while the audio data is being reproduced (page 4, paragraph 60), and for displaying second information (fig. 9, Recording Date/Data Set Number) including the image data associated with said part of the audio data (page 5, paragraph 75), when said part of the audio data is reproduced. Additionally, he teaches that the audio data accompanying the image data was recorded in fig. 7 (page 5, paragraph 72). However, Ejima does not expressly disclose reproducing audio data and image data associated with that part of the audio data which is recorded *the moment* the image data is generated.

In the same field of endeavor, Peng discloses a data recording and reproducing apparatus (figs. 1-3, ref. 100) capable of reproducing audio data and image data associated with that part of the audio data (col. 7, lines 11-21) which is recorded the moment the image data is generated (col. 6, lines 50-53). In light of the teaching of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ejima's apparatus with audio data which is recorded the moment the image data is generated in order provide a user with the option of capturing several image (or continuous image capture) at the same time as recording audio (Peng, col. 6, lines 50-53).

For **claim 15**, Ejima does not expressly discloses an apparatus, wherein audio data is associated with the image data has been reproduced. However, Ejima does not expressly disclose an apparatus, wherein the control means determines whether that part of the audio data which is associated with the image data has been reproduced, in accordance with data items representing the time when the recording of the audio data was started, the time elapsed from the start of recording the audio data and the time when the image data was acquired, before causing the image reproducing section to reproduce the image data.

In the same field of endeavor, Peng discloses an apparatus, wherein the control means determines whether that part of the audio data which is associated with the image data has been reproduced (fig. 7; col. 12, lines 44-55), in accordance with data items representing the time when the recording of the audio data was started, the time elapsed from the start of recording the audio data and the time when the image data was acquired, before causing the image reproducing section to reproduce the image data (fig. 8; col. 13, lines 56 – col. 14, lines 9). In light of the teaching of Peng, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to modify Ejima's apparatus with a control means determines whether that part of the audio data which is associated with the image data has been reproduced, in accordance with data items representing the time when the recording of the audio data was started, the time elapsed from the start of recording the audio data and the time when the image data was acquired, before causing the image reproducing section to reproduce the image data in order provide a user with the option of capturing several image (or continuous image capture) at the same time as recording audio (Peng, col. 6, lines 50-53).

For **claim 16**, Ejima discloses an apparatus, wherein the control means causes the display device to display the image data and audio for only a predetermined period (page 5, paragraphs 73-75). However, Ejima does not expressly disclose that the control means causes the display device to display the image data for only a predetermined period from the start of reproducing the image data.

In a similar field of endeavor, Peng discloses an apparatus, wherein the control means causes the display device to display the image data for only a predetermined period from the start of reproducing the image data (fig. 11; col. 14, lines 34-44). In light of the teaching of Peng, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ejima's apparatus with a control means that causes the display device to display the image data for only a predetermined period from the start of reproducing the image data in order provide a user with the option of capturing several image (or continuous image capture) at the same time as recording audio (Peng, col. 6, lines 50-53).

Allowable Subject Matter

13. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter:

Claim 6 is allowed because the prior art does not teach or fairly suggest the apparatus according to claim 5, wherein every time said part of the audio data is reproduced, said control means causes *the display means to display the second information for a predetermined time and then the first information upon lapse of the predetermined time.*

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patents

Hamamura et al. (6,567,120)	Information processing apparatus that displays audio information data.
Yamagami (6,334,025)	Audio output unit for reading out and displaying the audio data retrieved by the CPU.
Inoue et al. (6,226,449)	Audio/Image recording device that instructs device to display or not to display an image.
Fukuoka (5,614,946)	Still camera with time division recording of audio and video signals.

U.S. Patent Application Publications

Suzuki et al. (2002/0057351)	Information input apparatus, which displays reproduction status of audio without displaying the image.
Kazami (2003/0063208)	Image pickup apparatus that executes image capture while reproducing sound.

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carramah J. Quiett whose telephone number is (571) 272-7316.

The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (571) 272-7308. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJQ
July 7, 2005


NGOC-YEN VU
PRIMARY EXAMINER